

EXHIBIT E

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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

ROGER PARKER on his own
behalf and on behalf of
all others similarly
situated,

CIVIL ACTION FILE

Plaintiffs, NO. 5:22-cv-00268-TES

vs.

PERDUE FOODS, LLC,

Defendants.

VIDEO 30(b)(6) DEPOSITION OF
PERDUE FOODS, LLC
MICHAEL KEITH LEVINGOOD

November 14, 2023

9:02 a.m.

Suite 4800
191 Peachtree Street, N.E.
Atlanta, Georgia

Tracy A. Warner, B-2168, RPR

David Ramirez, Videographer

1 time.

2 Q. And I appreciate that answer, and I would
3 like to talk about those attachments. But before we
4 get to the attachments, this agreement itself, which
5 ranges 1627 -- and please take a look through --

6 A. It generally -- we don't change this very
7 often.

8 Q. And I appreciate that answer. I just --
9 can I get my question out first? I know I paused.
10 But 1627 through 1639, before you get to the
11 attachments, this agreement is the same agreement
12 that y'all have been using -- that Perdue has been
13 using from June 2016 to the present?

14 A. To the best of my knowledge, yes.

15 Q. I appreciate that. But as Perdue's
16 corporate representative regarding this contract, is
17 this the agreement that Perdue has used from June
18 2016 to the present?

19 A. Yes.

20 Q. And you referenced attachments changing
21 frequently. How frequently would attachments change?

22 A. They can change all the time. They're the
23 pay schedules, and there's multiple pay schedules for
24 every location based on multiple factors: bird
25 weight, bird age. So they're all tied to the plant,

1 the harvest plant, that the farmers are growing for.

2 Q. Got it. So all growers, with the
3 exception of Draper Valley and Pendulum Poultry,
4 would agree to this agreement but perhaps have
5 different attachments attached to it?

6 A. They would have to have different
7 attachments to it.

8 Q. And aside from pay schedules tied to
9 specific plants, are there any other attachments that
10 they would be signing on to?

11 A. Yes, could be a new house agreement.

12 Q. Anything else?

13 A. It's -- yeah, these attachments would --
14 could have a difference in fuel payments. We pay for
15 fuel; we don't pay for fuel. They -- there's tiers
16 in there that they pay differently in different
17 locations, tier payments. There -- some have audit
18 readiness bonuses on them.

19 So there's multiple more of those, if you
20 want me to keep adding them. There's enrichment
21 payments in one. There's loyalty bonus in a couple.
22 There's some performance bonuses in them. They're
23 also -- some of them are flat rate. Some of them are
24 competitive rate. So all those are in -- that's how
25 the farmer is paid, and all those are attachments to

1 within 2019, like an earlier agreement that was
2 still --

3 A. Say that again.

4 Q. Sure. Are there any earlier agreements
5 with growers --

6 A. Earlier when?

7 Q. Pre-2016.

8 A. I would need to see them.

9 Q. Let me just finish my question.

10 Are there any earlier agreements pre-2016
11 that would have still been enforced in 2019?

12 A. No. This is the new agreement.

13 Q. Right. But did all growers re-sign in
14 June 2016 if they had an earlier agreement?

15 A. Yes.

16 Q. And this agreement, the one that's in
17 front of you, the June 2016, the present agreement,
18 growers who receive a variety of different types of
19 flocks would still be operating under this agreement?

20 MS. SANTEN: Objection, vague.

21 THE WITNESS: Everybody signs this
22 agreement, okay? And then everybody signs an
23 attachment which is part of this agreement on
24 what they're going to get paid. So what changes
25 is the payment agreements can change all the

1 time. This is still in place since 2016.

2 BY MR. KLORFEIN:

3 Q. Got it. So large broilers, small
4 broilers, they're all under that agreement, plus the
5 attachment?

6 A. All 1300 farmers are under this agreement.
7 (Plaintiffs' Exhibit 3 was marked for
8 identification.)

9 BY MR. KLORFEIN:

10 Q. It will take a moment to get on your
11 screen, but if you wouldn't mind refreshing, I have
12 marked Plaintiffs' Exhibit 3, which is Perdue 3458
13 through 3657. Do you see it on your screen?

14 A. No. I see the document, but I don't see
15 that number -- oh --

16 Q. The first page does not have the Bates
17 stamp on it, but if you turn to the second page --

18 A. You didn't -- you didn't ask that.

19 MS. SANTEN: Counsel, this document, you
20 have to scroll left and right and up and down to
21 see. I'll leave to it the witness, but it's
22 difficult for me to follow electronically.
23 Could we possibly get paper copies of this one
24 to review?

25 MR. KLORFEIN: If you want to go off the

1 BY MR. KLORFEIN:

2 Q. If you would refresh your screen, you
3 should see Plaintiffs' Exhibit 4. It's a 12-page
4 document. And it ranges from Perdue 1580 through
5 1591. Once you've got it in front of you and you've
6 had a chance to look at it, let me know.

7 And my first question will be: Do you
8 recognize this document?

9 A. I recognize, yes.

10 Q. What is it?

11 A. So this is biosecurity, the never-evers
12 and dedicated-tos. We also have the
13 government-specified line of separation and the
14 government-specified perimeter buffer area defined as
15 the government defines it. We have biosecurity
16 footbaths that are used on the farm before entering
17 the line of separation, and then we also have the
18 broiler producer biosecurity Level 1, 2, and 3, which
19 are best management practices for our farmers, our
20 producers, to protect their birds.

21 Q. We'll go through a couple of these one by
22 one, but one of the things that you said was that
23 there was a government-imposed kind of regulation.
24 Is that Bates 1581, that second page?

25 MS. SANTEN: Objection, vague.

1 THE WITNESS: What's Bates?

2 BY MR. KLORFEIN:

3 Q. So when I refer to Bates, the Bates
4 number, I'm referring to that document on the bottom
5 right-hand corner of each page.

6 A. Oh, okay.

7 Q. That's when they're produced. It's just a
8 number that allows us to refer to the same page, even
9 if it didn't originally have that page number.

10 A. Okay.

11 Q. So when I say Bates 1581, that's the
12 second page of this document.

13 A. Yes, the line of separation and perimeter
14 buffer area.

15 Q. Yes. And I think you referenced
16 government-imposed line of separation?

17 A. Government -- yes.

18 Q. And so is this page drafted by Perdue?

19 A. We took that out of their documentation
20 and put it on our page.

21 Q. And aside from this page, is the rest of
22 the document drafted by Perdue?

23 A. Yes.

24 Q. And let's go back to Bates stamp 1580,
25 that first page.

1 A. Okay.

2 Q. The never-evers and dedicated-tos.

3 A. Uh-huh.

4 Q. What are the never-evers? What does that
5 mean?

6 A. So this document -- I'll get good at it --
7 Bates 1580 -- how about that? Does that make me look
8 better?

9 Q. You're looking great.

10 A. Okay. So farmers -- they're their farms,
11 right? We place our birds on their farms. And
12 there's standard business BMPs on -- based on what we
13 learn from universities, based on what we learned
14 from veterinarians, are the best ways to protect our
15 birds -- protect the birds.

16 So if you look at -- this is more of a
17 cultural thing, that if farmers read this and they
18 implemented this into their daily practices and this
19 became their culture, we wouldn't even need the other
20 pages because this just says if you never, ever visit
21 a live bird market, you reduce the risk of bringing
22 disease back to your farm. If you own poultry, you
23 shouldn't go to a live bird market. That's really
24 all that says. You shouldn't -- you spend time on a
25 live bird market and you have poultry on your farm,

1 you are a greater risk than somebody who never goes
2 to a live bird market to make their birds sick.

3 And so you can just go through each one of
4 those, and it's really letting them know if you add
5 this to how you operate your farm, you -- most
6 likely, you're going to reduce -- you're going to
7 reduce your chances of getting sick. It's like
8 you -- if you do a good job washing your hands, you
9 should reduce the way you get sick.

10 Q. Great. And everyone should wash their
11 hands.

12 A. Exactly. And the dedicated-tos are the
13 next step, the same, okay? So if you're going to do
14 the never-evers, then the dedicated-tos, if somebody
15 visits your farm, you should know who is visiting
16 your farm. You should have the visitors comply with
17 the biosecurity BMPs that you've implemented on your
18 farm and we've recommended, you should implement
19 those. You're the one -- you're there 24 hours a
20 day. We're not, because it's your business and your
21 farm.

22 So you just go through each one of those,
23 farm dedicated shoes. You know, you go down to the
24 local supermarket and you're wearing your chicken
25 shoes, what are you picking up on your shoes and what

1 are you bringing back to the farm? If you only have
2 farm-dedicated shoes, what's the -- you have less
3 risk of bringing something into the house. So this
4 is more of how they operate. And you can see we've
5 added the line of separation. That's the laws of the
6 chicken house. That's what that is.

7 The perimeter buffer area, years ago
8 before the USDA came out with this, we used to just
9 protect your farm from the road. Well, a lot of
10 these farms are right next to their dwelling house.
11 They have visitors come. They're not thinking about
12 it. You know, they say, oh, I'm protecting from the
13 road. But the visitor wants to visit the chicken
14 house and they don't do any of this. So we drew a
15 farm around the -- we drew a line around the
16 production area.

17 The government says, define your
18 production area, your BP -- PBA, your perimeter
19 buffer area, label that. So we have a picture of
20 that, and we have a line drawn. So in their head, in
21 their minds when they cross, they go, oh, I'm in the
22 PBA. Never-evens, dedicated-tos, am I doing -- is my
23 farm plan the best? And it's their farm plan. They
24 have to rate the farm plan.

25 Q. That's right. And in your answer, I think

1 you used the term "BMP." That's best management
2 practices?

3 A. Yes.

4 Q. And those are created by Perdue?

5 MS. SANTEN: Objection, vague.

6 THE WITNESS: We pulled them from a lot of
7 people that are experts and created our BMPs.

8 BY MR. KLORFEIN:

9 Q. Gotcha. So Perdue sourced the information
10 from an expert here, expert there, to create the
11 BMPs?

12 A. The best BMPs.

13 Q. The best BMPs. And these -- are these
14 never-evers, for example, kind of, the top level
15 memorialization of the BMPs, or is it somewhere else?

16 MS. SANTEN: Objection, vague.

17 THE WITNESS: It's like I said earlier,
18 it's -- it's -- the farmer can read these, and
19 if the farmer adopts them as a cultural change
20 in their way they operate their farm, they're
21 going to lower their risks.

22 BY MR. KLORFEIN:

23 Q. Gotcha. And if a farmer completely
24 disregarded these never-evers and said, I'm not going
25 to comply with any of these, what would happen to

1 that farmer?

2 MS. SANTEN: Objection, calls for
3 speculation.

4 BY MR. KLORFEIN:

5 Q. You can answer.

6 A. We've never terminated anybody for not
7 following this.

8 Q. You said "terminate."

9 A. We've never dropped a farmer. We -- you
10 know, we might suggest that you're doing things that
11 are going to increase the risk of your birds, which
12 could hurt your profitability. But it's their farm.
13 You know, they're there 24 hours a day, 7 days a
14 week. We're there 15 minutes in the house a week.
15 So all we can do is recommend. They have to make
16 this part of their daily business.

17 So it's risk. It's like buying insurance.
18 Some of them say, I'm not going to buy any insurance,
19 I'll take the risk. They're taking the risk. We
20 just said, if you do these, you have a better chance
21 to be more profitable. That's all we said.

22 Q. Got it. But, again, if a -- and I said
23 "farmer." But when I refer to "farmer," I --

24 A. I gotcha.

25 Q. And for the record, farmer equals --

1 A. I gotcha.

2 Q. -- grower, right?

3 A. Yes.

4 Q. If a farmer or grower, again, after
5 Perdue's insistence disregards all of these
6 never-evers and said, I'm not going to comply with
7 them in any way, would Perdue cease sending flocks to
8 them?

9 MS. SANTEN: Objection, calls for
10 speculation.

11 THE WITNESS: My sense is probably not.

12 BY MR. KLORFEIN:

13 Q. Perdue would continue to send flocks to a
14 farmer who completely disregards all of these
15 never-evers?

16 MS. SANTEN: Same objection and outside
17 the scope.

18 THE WITNESS: Yeah, because what would
19 happen is -- what would cause this to be
20 terminated, what would cause them to not grow
21 with us anymore, they get a flock sick. They
22 get AI. Now we see that they never did any of
23 the never-evers, maybe then. But it's never
24 happened. But --

25

1 the record. And to the extent it ever comes up,
2 whether this is testimony within his corporate
3 capacity or individual, we can handle it then.

4 MR. KLORFEIN: I disagree, but I'll re-ask
5 my question.

6 BY MR. KLORFEIN:

7 Q. So under the policies that we were just
8 referring to, does Perdue cease sending flocks to
9 farmers when they disregard the recommendations that
10 Perdue provides?

11 MS. SANTEN: Objection, vague.

12 THE WITNESS: Yeah, you need to be more
13 specific on what policies you're asking me
14 about.

15 BY MR. KLORFEIN:

16 Q. So turning back to the document that we
17 are referring to -- this is Exhibit 4 -- I'm asking
18 about the never-evers right now.

19 A. The never-evers, okay. This is not a
20 policy. This is a recommendation. This is a BMP.
21 BMPs aren't policies.

22 Q. And if farmers disregard these
23 recommendations --

24 A. These BMPs, best management practices,
25 these recommendations -- go ahead. I'm just trying

1 to make sure I understand.

2 Q. Right. In your previous answer, you
3 referred to BMPs as recommendations. I'm asking:
4 These recommendations, if they are completely
5 disregarded, is there any impact on the grower?

6 MS. SANTEN: Objection, vague.

7 THE WITNESS: I don't know of any farm
8 that we've terminated because of not following
9 these.

10 BY MR. KLORFEIN:

11 Q. And my question is slightly broader than
12 what your answer was. I think you referred to the
13 term "terminated." My question is broader than that.

14 If growers completely disregard these
15 never-evers, is there any impact on the grower?

16 A. Oh, that's a different question. If they
17 completely disregard these and their birds get sick,
18 they're going to lose money because they caused it.
19 That's their -- that's -- the farmer did that. I had
20 nothing to do with that.

21 Q. Will Perdue take any action?

22 A. I don't need to. They made less money.

23 Q. Right. But -- so it's your testimony that
24 Perdue will not take any action?

25 A. We might tell the farmer, do you

1 understand why your birds were sick? You didn't
2 follow the BMPs. You should have followed the BMPs.
3 Your birds might not have gotten sick. That's why
4 your birds got sick. You're not following the BMPs.

5 Q. Will Perdue take any other action besides
6 explaining to the farmer why the birds got sick?

7 MS. SANTEN: Objection, vague, and to the
8 extent specific instances like that fall outside
9 the scope.

10 You can respond in your individual
11 capacity.

12 THE WITNESS: Okay. No. We'll keep
13 trying to coach them that they should -- they
14 should try to change their culture because their
15 culture of following the never-evens and
16 dedicated-tos are going to help them make more
17 profit.

18 BY MR. KLORFEIN:

19 Q. These are posted in barns?

20 A. Absolutely.

21 Q. All growers have to post them in barns?

22 A. Yes, in one house on the farm.

23 Q. Got it. So it might not be if there are
24 multiple houses on a farm, but just one at each farm?

25 A. Yes.

1 Q. And all growers again -- well, maybe --
2 this isn't cutting out Draper Valley or Pendulum
3 Poultry. I mean, all growers, this has to be posted
4 in all farms?

5 A. Yes.

6 Q. And these recommendations apply to all
7 growers?

8 MS. SANTEN: Objection, vague.

9 THE WITNESS: They're BMPs, and they are
10 there to help them understand if they want to
11 protect their birds, their profit, that they
12 should follow these.

13 BY MR. KLORFEIN:

14 Q. But the BMPs apply to all growers?

15 A. These BMPs also help them that if they got
16 high-path AI, it's part of the government 14-step
17 process that this stuff needs to be posted. These
18 farms need to understand biosecurity if they want to
19 get indemnified by the government.

20 So we're also doing this to help them to
21 be sure that if they ever got high path, they can
22 give -- they're not going to lose their total
23 profitability. They're going to be indemnified by
24 the government, so we're also trying to protect them.

25 Q. And by protecting them, that applies to

1 BY MR. KLORFEIN:

2 Q. We've turned back to Plaintiff's
3 Exhibit 3. We now have a paper copy right in front
4 of you, if you wouldn't mind taking a moment to
5 review it.

6 But, again, my first question is: Do you
7 recognize the document?

8 A. Yes.

9 Q. What is it?

10 A. It's the Poultry Care Process Verified
11 Program. Want me to explain?

12 Q. That would be very helpful, please.

13 THE VIDEOGRAPHER: One moment, please.
14 Let me go off the record.

15 The time is 10:13 a.m. We are off video
16 record.

17 (Off-the-record discussion.)

18 THE VIDEOGRAPHER: The time is 10:14 a.m.
19 We are back on video record.

20 BY MR. KLORFEIN:

21 Q. Right before we went off the record, I
22 believe you were about to explain what the Poultry
23 Care Process Verified Program was.

24 A. Okay. So the process verified program is
25 actually a USDA program. So the best way I always

1 explain it to people is if you go into a restaurant
2 and you see the health score in a restaurant, that's
3 USDA -- it's called AMS also -- they actually perform
4 those audits in a restaurant and give them a health
5 score, okay?

6 So those same auditors, that department,
7 if you give them an audit instrument and you say,
8 here's our -- for this one, our poultry care program,
9 they will then come and audit it. And on their
10 website, they'll go, it's a process verified program
11 audited by USDA. So this is a USDA third-party
12 audited animal care program for Perdue.

13 Q. And rather than repeatedly referring to
14 the program, can I refer to it as PVP? Is that how
15 you --

16 A. That's how we actually say it, so you're
17 catching on.

18 Q. So this PVP, you said you submit to -- I
19 think you said USDA?

20 A. Yes.

21 Q. And then they audit this PVP?

22 A. Yes.

23 Q. And sign it off and say, this is
24 audited -- and you can then say it's audited?

25 A. Yes. It's also PAACO-verified, which

1 means that's a group that will -- it's not poultry.
2 I forget the actual name of it, but you can look at
3 it. It's PAACO. So they certify audits to mean it
4 actually meets industry animal care standards. And
5 this was the very first one. This is the very first
6 broiler process -- this was the very first poultry
7 care program that PAACO certified.

8 Q. Gotcha. And on that first page, it says
9 "Version 10/9/23"?

10 A. Yes.

11 Q. So previous versions were issued; is that
12 accurate?

13 A. Yes. If you turn to the first page, we
14 list all the times that there was adjustments to it.

15 Q. That's on -- beginning Bates 3459?

16 A. Yes, sir. And it goes all the way back
17 to -- you can see that the -- if you go to
18 Bates 3460, the very first one was 3/1/11. So that
19 was -- since then, all those line items are
20 adjustments to the program.

21 Q. Understood. So the PVP has been in place
22 in some form or fashion since March 1, 2011?

23 A. Yes, sir.

24 Q. And all the changes to the PVP are
25 memorialized in these notations?

1 A. Yes.

2 Q. But I think you said only the most recent
3 version of the PVP has been signed off on by that
4 organization?

5 A. No. The whole thing has been signed off.
6 It gets signed off every year. So they look at it
7 every year. So when it was first signed off every
8 year, PAACO keeps saying, yep, they get a check box,
9 and USDA audit uses this instrument to audit us.

10 Q. Gotcha. And when I say "you are
11 submitting to USDA," I'm referring to Perdue. Can we
12 have that understanding?

13 A. Yes, sir.

14 Q. And although the USDA certifies this is
15 audited, Perdue is the one drafting the words in this
16 PVP?

17 A. Yes, plus the NCC Broiler Welfare
18 Guidelines are our base. So we use the National
19 Chicken Council Broiler Welfare Guidelines as a base.
20 And then an example would be lighting. And the
21 lighting, we do a little more than the NCC
22 guidelines. So this program is a little stricter on
23 lighting than, say, NCC. But the base of this
24 program is National Chicken Council Broiler Welfare
25 Guidelines. And they change every couple of years,

1 so some of the changes would be because NCC changed
2 their requirements.

3 Q. Understood. So the NCC would maybe set a
4 floor for certain guidelines?

5 A. Absolutely.

6 Q. And Perdue would say, we want to be a
7 little bit higher than that, so our guidelines are
8 above that?

9 A. Yes.

10 Q. If you turn to Bates 3468.

11 A. (Witness complies.)

12 Q. See the table of contents on the far
13 left-hand side, and below that there are a list of
14 locations with alphanumeric numbers to the right of
15 them?

16 A. Yes.

17 Q. What are those locations?

18 A. They are harvest plants.

19 Q. And does the PVP apply to all the growers
20 that feed into these harvest plants?

21 A. Yes.

22 Q. And are these all of the harvest plants
23 that Perdue maintains?

24 A. For broilers, yes.

25 Q. And for other chicks?

1 new person that is in charge of this program.

2 Q. And what is her role?

3 A. Her role is -- I don't know her exact
4 title, but it's quality -- quality is in her title
5 of -- she's the food safety quality for live
6 production.

7 Q. And I believe you noted in your earlier
8 testimony that a revision might occur based on the
9 NCC guidelines changing?

10 A. Yes.

11 Q. Are there any other reasons why PVP would
12 be revised?

13 A. Sure, that we could -- we may make a
14 decision to up our level of standards and it would be
15 revised, or she could find something in the
16 documents -- because it's our program -- it's NCC
17 plus our program that we hand to USDA, correct? So
18 she could find some new -- as she's going out
19 auditing -- she audits every one of the facilities
20 once a year. USDA audits them once a year. We have
21 a poultry care officer at every live location and a
22 poultry care officer at every harvest plant. And
23 they audit it the other ten months of the year.

24 This is an ISO 140001 process of auditing.
25 So what happens with that is if she finds something

1 in there that the way our third-party auditors are
2 looking at things and they discuss there's a
3 different way to audit, then she would go in and have
4 to make a change in a document, and then all those 11
5 locations would then have to follow that change.

6 Q. And then the growers would also have to
7 follow the change?

8 A. Only the things in here that apply to the
9 growers. This is more than just our farmers.

10 Q. Right. But it includes guidelines for the
11 farmers as well?

12 A. I'm just saying that what you said is,
13 only changes in here that apply to our farmers would
14 be what we would go and talk to our farmers about.

15 Q. Let's talk about a couple of those.

16 A. Sure.

17 Q. Turning to Bates 3540.

18 A. 35 --

19 Q. 3540. It's about 83 pages in.

20 A. (Witness complies.)

21 Q. The title page says "Producer Caretaker
22 Poultry Care Training."

23 A. Yes.

24 Q. Is this the training that would apply to
25 growers?

1 MS. SANTEN: Same objection, vague.

2 THE WITNESS: We want them to follow them.

3 BY MR. KLORFEIN:

4 Q. Perdue requires growers to follow these
5 trainings?

6 MS. SANTEN: Same objection, asked and
7 answered.

8 THE WITNESS: We ask them to follow these
9 recommendations.

10 BY MR. KLORFEIN:

11 Q. I'm asking, Perdue requires growers to
12 follow the training?

13 MS. SANTEN: He's responded. I know you
14 don't like his response, but he's responded now
15 twice. Asked and answered.

16 BY MR. KLORFEIN:

17 Q. You can answer.

18 A. Follow them.

19 Q. I understand that you asked them to follow
20 these trainings. I'm asking a slightly different
21 question: that Perdue requires growers to follow
22 these trainings?

23 A. The thing we require in here out of this
24 training that we require is that they euthanize
25 chickens properly.

1 MS. SANTEN: He's testified they do not
2 require them to follow these, that they ask. So
3 I object to the form of the question.

4 THE WITNESS: I need you to ask the
5 question again.

6 BY MR. KLORFEIN:

7 Q. Sure. The reasons for poultry care
8 training, these are some of the reasons why Perdue
9 requires growers to abide by these trainings?

10 MS. SANTEN: Same objection, assumes facts
11 not in evidence, misstates prior testimony.

12 You can respond.

13 THE WITNESS: Okay. And you're only
14 asking about Page 642 currently?

15 BY MR. KLORFEIN:

16 Q. 542.

17 A. 542. So these are not requirements.
18 These are farmer understandings to make sure they
19 understand that the chickens do -- we believe the
20 chickens feel pain, and this is more of us educating
21 them to make sure they understand that chickens feel
22 pain. These aren't requirements. These are
23 education.

24 Q. Right. But the training -- the entire
25 training is required, right?

1 Q. I noticed as you were flipping through
2 that you put these pages in different sections on the
3 table. Was there a reason you did that?

4 A. Yeah. I wanted to separate them so when
5 you ask me the questions, I can see them.

6 Q. And did you sort them into any type of
7 category?

8 MS. SANTEN: Just object generally. This
9 isn't covered by the topics at all. If he wants
10 to respond in his individual capacity, he can.

11 MR. KLORFEIN: This is squarely within the
12 policies that --

13 MS. SANTEN: How he organized papers on a
14 table for purposes of being able to see
15 everything so he could respond to your question
16 is not covered by the topics at all. I think he
17 just said he did it that way so he could see
18 everything so he could fully respond to your
19 questions. And so that was his response. I
20 don't think there's any further response needed.

21 MR. KLORFEIN: Your objection is noted.

22 BY MR. KLORFEIN:

23 Q. Did you categorize these on the table for
24 any particular reason?

25 A. I wanted to pull out the euthanization.

1 Q. And why did you do that?

2 A. Because it's a requirement.

3 Q. And I see a couple pages that you pulled
4 out related to euthanization. Can you read the Bates
5 numbers for the pages that fall in that category?

6 A. 3548, 3544, and I also included the
7 hotline, 3544.

8 Q. I got 3548, 3544. I'm not sure I got the
9 last one.

10 A. 3547. That's the euthanization.

11 Q. And those are all requirements that Perdue
12 has for growers?

13 A. Uh-huh.

14 MS. SANTEN: Provide a yes or a no.

15 THE WITNESS: Yes.

16 BY MR. KLORFEIN:

17 Q. Aside from the euthanizing slides that we
18 just talked about, did you put any other slides into
19 another category of bucket on your table?

20 A. There's -- yes.

21 Q. And what was that category?

22 A. Pretty much they were recommended ---
23 recommended that levels of production that match,
24 that we need to be sure the farmers understand that
25 these will be audited against, that -- you know, that

1 these are the standard operating procedures that they
2 should target. It doesn't mean they can hit them all
3 the time, but they are going to be audited against
4 them.

5 And they have the responsibility to
6 actually try to maintain these. Do they do it all
7 time? It's not possible in live operations to do it
8 all the time, but that's what we want them to shoot
9 for.

10 Q. And for the record, I'm just going to ask
11 you to read off the Bates numbers so we know, in the
12 record, what slides you're referring to for this
13 category.

14 A. Sure. 3549, 3550, 3551, 3552, and 3553.

15 Q. And for this category, Perdue expects
16 growers to abide by these recommendations?

17 A. This is educating farmers on our targets
18 that we want them to try to maintain.

19 Q. So we talked about the required category
20 materials. We talked about the targets just now.
21 Any other categories that you sorted these pages on
22 on your table?

23 A. The only pages that are left are more
24 educational.

25 Q. To inform growers?

1 A. Just to make sure that they're aware, to
2 educate.

3 MS. SANTEN: And could you state those
4 Bates numbers just so we're clear?

5 Sorry, Jarred. I thought that was helpful
6 before.

7 MR. KLORFEIN: Sure.

8 THE WITNESS: 3555, 3554, 3542, 3543, and
9 3546.

10 BY MR. KLORFEIN:

11 Q. Any other buckets that you sorted?

12 A. No, unless you want me to -- well, we
13 might as well just include all the pages. So 3540
14 was the title page, and 3541 was the agenda. Now you
15 have all the pages.

16 Q. Very helpful. Turning back to your bucket
17 of informational -- I think that's on your left-hand
18 side, 355 -- excuse me -- 3543, it says "Abuse of our
19 chickens will not be tolerated under any
20 circumstances."

21 A. Yes, I have it.

22 Q. That was for the informational bucket?

23 A. Uh-huh.

24 Q. Is that right?

25 A. Yes.

1 ability to go, Jarred, you know, you're a plus
2 grower. You're doing great. I'm not going to come
3 see you this week because I don't need to. You got
4 it. I'm going to go spend time with farmers that are
5 asking for my help and need help.

6 Q. Right. But you would agree with me that
7 flock advisors provide feedback even if growers
8 aren't asking for it?

9 A. They fill out their visitation report,
10 correct.

11 Q. And if the farmer does not abide by the
12 recommendations in that visitation report, the flock
13 advisor can withhold chickens, right?

14 A. No.

15 Q. The flock advisor cannot withhold chickens
16 from a grower?

17 A. No.

18 Q. A flock advisor doesn't have authority to
19 do that?

20 MS. SANTEN: Objection, vague.

21 THE WITNESS: Yes, a flock advisor does
22 not have authority to hold chickens.

23 BY MR. KLORFEIN:

24 Q. Does somebody above the flock advisor have
25 authority to withhold chickens?

1 A. They could, yes.

2 Q. And who is the person who has that
3 authority?

4 A. Generally, it's going to go up multiple
5 levels.

6 Q. Okay. But who at Perdue has the authority
7 to withhold flocks from farmers?

8 A. I'll give you some titles. A live
9 production manager would generally be the person.

10 Q. And so the live production manager -- or
11 let's call them similar roles, maybe a different
12 title -- can withhold flock from growers?

13 MS. SANTEN: Objection, vague.

14 THE WITNESS: I would say the live
15 production manager is the person -- so a live
16 production manager is responsible for all the
17 farmers under his -- like, we'll pick a
18 location. We'll pick Perry location.

19 So under Perry, there's one live
20 production manager. The live production manager
21 reports to a vice president. I'm sure, I'm very
22 positive, surely, that that live production
23 manager is going to inform the vice president if
24 he's going to withhold chickens.

25

1 BY MR. KLORFEIN:

2 Q. So the live production manager will inform
3 the vice president but then authorize the withholding
4 of flock from the grower?

5 A. Yes.

6 Q. And what are the reasons why a live
7 production manager would withhold flocks from
8 growers?

9 A. There's multiple reasons.

10 Q. What are they?

11 A. So cost is probably the biggest one. You
12 know, that they're just not performing. There could
13 be multiple reasons they're not performing. One is
14 they're not spending any time with the birds. The
15 farmer may just, you know -- just not even -- you
16 know, they're there 24 hours a day. And if we go
17 there once a week for an hour every week, that's our
18 only snapshot of what's going on. So we don't always
19 know.

20 But you can eventually figure out that,
21 you know, the litter is wet. His ventilation isn't
22 good. His ventilation isn't good because his
23 equipment is not working, but the driver isn't -- the
24 driver, they're the -- that's what's causing the cost
25 to be bad.

1 But what generally is going to drive a
2 farmer to withhold chickens is two things: It's
3 either going to be their cost, and most likely,
4 they're going to go through our PIP program for that
5 to happen; or it's going to be that it's an animal
6 welfare issue and if we place the birds, it's a
7 detriment to the birds. So an animal welfare issue
8 can happen quicker than probably a cost issue.

9 Q. Okay. We just talked about the cost
10 issue. Let's talk about the animal welfare issue for
11 a second.

12 So if a live production manager determines
13 that there is an animal welfare issue at a grower's
14 facility, that live production manager can withhold
15 flocks from going to the grower, right?

16 A. Yes.

17 Q. And failing to maintain proper
18 ventilation, is that an animal welfare issue?

19 A. Yes, that could be.

20 Q. And that's based on Perdue's standards of
21 what is an appropriate amount of ventilation?

22 A. Yes.

23 Q. And, similarly, if the -- I think you said
24 the pallet is wet or the sod is wet?

25 A. The litter.

1 Q. The litter is wet, that would also be --

2 A. That's an indicator. If the litter is
3 wet, why? A flock advisor is going to spend all
4 their time going: Issue, why? Cause, why? And then
5 work with the farmer and go, I believe this could be
6 the issue, you know, let's try it.

7 A lot of it is trial and error. These are
8 live animals. So between the farmer's experience of
9 their farm -- the farmer knows their house better
10 than any flock advisor, so we're going to listen to
11 the farmer. But we're going to say, your litter --
12 you know, as an example, your little is really wet,
13 your ventilation is not good. Birds need to breathe.
14 They don't need to breathe ammonia. You need to --
15 that's hurting your performance, which is hurting
16 your cost, which is why you're not making enough
17 money. So if you want to make more money, I can help
18 you. Here's my knowledge of some things that could
19 work. Try it.

20 But you still -- you the farmer, Jarred,
21 could go, I don't believe you. Okay. It's your
22 decision. It's your house. It's your farm. It's
23 your cost.

24 Q. Right. But I think we already talked
25 about cost. I was asking about animal welfare.

1 A. Same for animal welfare. If there's no --
2 if the ventilation is not there and we're going to
3 put birds in and there's no oxygen in the house, or
4 we know we're going into winter and there's big holes
5 in the wall and we're not going to be able to heat
6 the house, why would I put baby chicks in there to
7 suffer? But if you fixed it, I'll put the baby
8 chicks in.

9 Q. Right, because animal welfare is
10 important?

11 A. Animal welfare is greatly important.

12 Q. And if a grower does not follow the
13 recommendations related to animal welfare, Perdue can
14 withhold flocks, right?

15 MS. SANTEN: Objection, vague, asked and
16 answered.

17 THE WITNESS: It's not that cut and dry.
18 You're asking me to tell you that we're going to
19 not put birds in because of animal welfare.
20 We're not going to -- we're going to build up to
21 that point. We're going to try to help you as a
22 farmer, since it's your farm, you're providing
23 the labor, you're working this. We want you to
24 make more money. We're giving you the
25 suggestions.

1 list, so I don't -- I'm struggling on the purpose.
2 But there's -- we have minimum requirements for
3 building a new house. We have minimum requirements
4 to be at different tier levels in the payment
5 schedules. So I don't know where you got it. I
6 don't know what location. I don't know -- it doesn't
7 say enough at the top to tell me -- or at the
8 bottom -- what it was used for.

9 Q. Okay. And I don't want you to guess on
10 which of those two things it is, but it could be used
11 for one of two things; is that accurate?

12 A. It could be used for multiple -- all I
13 know is this is an equipment list for 40' x 500'
14 broiler house. I don't -- from that point, I can't
15 tell from this document why they made this list. I
16 just can't tell why they made this list.

17 Q. If this was produced by Perdue in this
18 litigation, would you have any reason to dispute that
19 this would be used by Perdue?

20 A. I can't dispute that it wouldn't be used
21 for Perdue, but I don't know what location is using
22 it or what their purpose is for it, other than it's a
23 list of equipment for 40' x 500' broiler house.
24 That's all I can discern from this list. I can't --
25 I don't know understand -- you know, we have plenty

1 to go in the anteroom and just get the mortality and
2 I didn't walk through the houses. That would be
3 perfectly fine.

4 Q. Yeah, he doesn't -- Bradley, assuming that
5 he's the flock advisor, doesn't need to list out the
6 purpose of the visit?

7 A. No.

8 Q. Does Bradley even need to have a reason to
9 visit if he decides in his own judgment to visit?

10 A. Sure. That is his partner. He's -- that
11 farmer is our partner. If Bradley knows that you
12 have trouble the third week, the second week in past
13 flocks, why wouldn't I come and look at your birds a
14 couple of times during the second week to help you or
15 give you some recommendations how to make more money?

16 Q. You can set that document aside.

17 A. (Witness complies.)

18 Q. Earlier, you talked about -- I think it
19 was NCC guidelines, the National -- can you finish
20 that? I just --

21 A. National -- it's the National Chicken
22 Council.

23 Q. National Chicken Council. And are these
24 national guidelines?

25 A. Yes, they post them. Well, they have

1 developed the National Broiler Chicken Welfare
2 Guidelines for the broiler industry. There's no --
3 they don't demand you to use them. They just produce
4 them and put them out there. So not every company
5 uses them, but I would say the majority of companies
6 do.

7 Q. Perdue uses them?

8 A. We do.

9 Q. And so when NCC issues a nationwide
10 guideline, Perdue will implement that guideline
11 across all chickens?

12 A. So you're going back to the Poultry Care
13 Verified Program; is that correct?

14 Q. Well, I'm just trying to understand the
15 NCC guidelines.

16 A. Right. So they have put out these
17 guidelines. We have used these guidelines to produce
18 our PVP program as the base of the program. And,
19 honestly, it's the majority of our program. There's
20 very few differences today from 2011 on this program,
21 okay?

22 So anytime they make a change to their
23 program, because it's the base of our poultry care
24 program, we have to change our audit program. We
25 have to change our process verified program. So a

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1 lot of those line items we talked about earlier were
2 because NCC changed their guidelines.

3 Q. Gotcha. So the line item will be edited
4 to accommodate the NCC guidelines?

5 A. Yes.

6 MS. KLORFEIN: All right. With the
7 recognition that during Phase 2 we would reopen
8 this deposition and with the understanding that
9 there's been an amendment that I think counsel
10 is going to be going into, we're going to leave
11 the deposition open for that purpose.

12 I do not have any further questions.

13 MS. SANTEN: And I just want to say when
14 you say "reopen this deposition," we have not
15 agreed to reopen this deposition for the purpose
16 of the noticed topics for today.

17 If there's a Phase 2 deposition, we
18 understand you might take an additional
19 30(b)(6), but it wouldn't be to rehash topics
20 that were specifically agreed to for today.

21 MR. KLORFEIN: I object to that
22 characterization. And we will, I guess, take it
23 up at the appropriate time in the future. But I
24 understand that you are reserving your rights as
25 we are. Fair?

EXHIBIT 4 (BEING FILED UNDER SEAL)